

## How to Apply Webinar Q&As: Part 1 of 2

Exempt Organizations' Customer Education & Outreach (CE&O) provides answers to general questions posed by attendees at our phone forums. Attendees of our July 24, 2014, webinar *How to Apply for Tax-Exempt Status* submitted the questions answered here. We'll also distribute a separate document with answers to questions pertaining specifically to the Form 1023-EZ shortly.

In addition to reviewing these answers, you'll find valuable information about charities and non-profits at these IRS sites:

- [Tax Information for Charities & Other Non-Profits](#)
- [Stay Exempt](#)
- [A-Z Site Index](#)
- [Calendar of Events](#)

Please register for our free e-newsletter, the [EO Update](#).

For additional support, call Customer Account Services toll-free at (877) 829-5500.

CE&O provides answers to general question posed by attendees at our phone forums. Attendees should refer to Revenue Procedure 2014-4 for guidance dealing with specific questions regarding a special or unique set of circumstance or fact patterns.

Visit our [Webinars page](#) to register for our upcoming presentations.

### **Questions & Answers**

#### **General application questions**

- 1) What statute/regulation covers the under \$5,000 exception (stating that organizations that average \$5,000 or less in gross receipts annually aren't required to apply for 501(c)(3) status)?**

*See Code section 508(c)(1)(B).*

- 2) How does a small 501(c)(3) (receipts less than \$5,000) PROVE to donors it has charity status if it doesn't submit the 1023 application? Presumably it won't be on the Pub 78 list.**

*An organization wishing to have official acknowledgement from the IRS of its exempt status (including being listed on our Select Check database of Publication 78 data) would have to submit an application and pay the user fee.*

- 3) At the beginning of the presentation, you stated organizations that had gross revenues of less than \$5,000 did not have to file a Form 1023 or 1023-EZ. If they are mainly a volunteer organization that does not rely on a lot of donations but still provides a charitable purpose, such as animal welfare, how should they request exempt status?**

*If the organization wishes to obtain a determination letter from the IRS recognizing it as tax-exempt under section 501(c)(3), it must file a Form 1023 or, if eligible, a 1023-EZ. If the organization has gross receipts averaging under \$5,000 per year, it may operate as a section 501(c)(3) organization without applying to the IRS for a determination letter. However, it must still file an annual return or notice, such as Form 990-N.*

- 4) I started filling out the Form 1023 but never submitted it. How long do I have? Can I switch over to the 1023-EZ due to my income being under \$5,000?**

*An organization that is not a private foundation with gross receipts normally \$5,000 or less that operates as a 501(c)(3) is not required to apply for exempt status, but would still be required to file an annual return or notice, such as Form 990-N. However, if such an organization wishes to obtain formal recognition from the IRS of its exempt status, it should use the 1023-EZ eligibility worksheet to determine if it may file that form. If it is not eligible to file Form 1023-EZ, it may file Form 1023.*

*An organization has 27 months from the date of its formation to file Form 1023 (or Form 1023-EZ) if it wishes to be recognized as exempt from its formation date. If an organization applies more than 27 months after its formation date, it is normally only eligible for exemption from the postmark date of its exemption application.*

- 5) Can the Form 1023 be used to apply for exemption under section 501(c)(4)?**

*No. An organization that wishes to be recognized as exempt under section 501(c)(4) must file Form 1024.*

- 6) Do I need to renew my 501(c)(3) status every five years? If yes, which form would I fill out to apply?**

*Once an organization is recognized as exempt under section 501(c)(3), it does not need to apply again. However, almost all 501(c)(3) organizations must file an annual return or notice, such as the Form 990, 990-EZ, or 990-N (e-Postcard).*

For more information, see our page on [Required Filings for Exempt Organizations](#).

**7) If your organization is part of a group exemption and you want to apply for your organization's own 501(c)(3) do you use Form 1023?**

*Yes. The organization may also be eligible to submit Form 1023-EZ if it meets the criteria specified in the Eligibility Worksheet. The Eligibility Worksheet is available in the [Instructions for Form 1023-EZ](#).*

**8) As a business, is it necessary to file a tax-exempt form?**

*Only organizations that meet the criteria for tax exemption are eligible to receive tax-exempt status. This may include charitable organizations, private foundations, social welfare organizations, and others.*

*See [our web page](#) for more information.*

**9) When the authorized representative is no longer with the organization, does the organization need to notify the IRS?**

*If the organization has filed a Form 2848, [Power of Attorney and Declaration of Representative](#) authorizing an individual to represent it, refer to the [Instructions for Form 2848](#) for information on how to revoke the authorization.*

**10) Even though we're a church, we'd like to apply for grants to use towards growing our after-school program. Do we still need to file for a 501(c)(3)? Would be it be beneficial?**

*Some grant-making organizations may require a determination letter from the IRS confirming that the grantee is recognized under section 501(c)(3). An organization must apply to the IRS if it wishes to obtain a determination letter.*

**11) If tax exempt status was revoked and now reinstated back to time of revocation what tax returns are required to stay compliant ?**

*Once an organization's exempt status has been reinstated, it is generally not required to file past returns. However, it must meet its annual filing requirements going forward. For more information, review [Revenue Procedure 2014-11](#).*

**12) Does a booster club formed to raise funds to support a high school sports team need to apply for section 501(c)(3) status?**

*Generally, an organization is not legally required to apply for section 501(c)(3) status. However, if an organization wishes to receive tax-deductible contributions*

*and be exempt from paying federal income tax, it must apply for recognition of exemption if its gross income is greater than \$5,000 per year.*

**13) Does an organization need an attorney to complete the forms?**

*No, an attorney is not required to complete applications for recognition of exemption or annual information returns. Many organizations choose to complete these forms without the assistance of an attorney or tax professional.*

**14) If an organization's tax-exempt status was automatically revoked, what is the process to get it reinstated?**

*Review [Revenue Procedure 2014-11](#) for the procedures for reinstatement of tax-exempt status.*

**15) What is the current backlog for applications?**

*As of the date of this document, the average age of our pending application inventory is June 2014. Please note that this is merely an average, meaning we have many applications in our inventory that are older than this. We are working hard to reduce the age of our inventory.*

**16) Does the IRS send a determination letter letting the organization know it is not approved? Or is the letter only sent if application is approved?**

*If we determine that an organization does not meet the requirements for recognition of tax-exempt status, we will send a proposed adverse determination letter explaining our reasoning for the decision. The organization has the right to appeal our determination.*

**17) What is the application fee for i1023?**

*The i1023 is an interactive way of filling out Form 1023. It is processed in the same way as conventional Forms 1023, and carries the same user fee. User fees for exemption applications are listed [here](#).*

**18) Does the total receipts amount include in-kind amounts when calculating if you can file 1023-EZ?**

*Donations of goods or property are included as part of your organization's gross receipts.*

**19) How would you classify a volunteer fire department? Can it file a 1023-EZ?**

*Volunteer fire departments may be classified under either section 501(c)(3) or 501(c)(4). Typically the provision of municipal services, such as fire protection, is*

*considered a burden of government. Organizations that lessen the government's burden may qualify for exemption under section 501(c)(3). Organizations that provide for the social welfare may qualify for exemption under section 501(c)(4).*

*If the organization meets the requirements of section 501(c)(3) and answers "no" to all the questions on the 1023-EZ Eligibility Worksheet, it may file Form 1023-EZ. The Eligibility Worksheet can be found in the [Instructions for Form 1023-EZ](#).*

**20) How would you classify a community football or baseball team? Can they file a Form 1023-EZ?**

*Sports activity is not in and of itself an exempt activity under section 501(c). However, amateur sports organizations may qualify for section 501(c)(3) exemption under any of three different rationales:*

- a. An organization may be educational within the meaning of section 501(c)(3) if it teaches sports to youth or by being affiliated with an exempt educational organization. Such educational organizations may also provide facilities and equipment.*
- b. An organization that develops, promotes, and regulates a sport for youths may be charitable within the meaning of section 501(c)(3) as combatting juvenile delinquency or lessening the burdens of government.*
- c. The organization is organized and operated to foster national or international amateur sports competition and no part of its activities involve the provision of athletic facilities or equipment.*

*Similar organizations that cannot or choose not to meet the requirements of section 501(c)(3) may qualify for exemption under section 501(c)(4).*

*If the organization meets the requirements of section 501(c)(3) and answers "no" to all the questions on the 1023-EZ Eligibility Worksheet, it may file Form 1023-EZ. The Eligibility Worksheet can be found in the [Instructions for Form 1023-EZ](#).*

**21) How long does the letter of determination take after submitting Form 1024?**

*See our response to question 15. Processing time for Form 1024 is similar to that for Form 1023.*

**22) If an organization self-declares, will it get a determination letter later from the IRS? Or will it have to file Form 1024?**

*Many tax-exempt organizations are eligible to "self-declare" and operate as tax-exempt without obtaining formal recognition of tax-exempt status from the IRS.*

*However, if an organization wishes to receive a determination letter, it must apply to the IRS. Organizations seeking recognition of exemption under a section other than 501(c)(3) must file Form 1024.*

**23) Where would we send a letter requesting expedited handling of our application?**

*If you have not yet submitted your Form 1023 or 1024, include your request for expedited handling along with the application. If you have already submitted your application and wish to request expedited handling, fax your request to (855) 204-6184. For more information, go to our [web page on expedited application processing](#). Also note that Form 1023-EZ applications cannot be expedited.*

**24) We're a cemetery association. Last year we learned we should have a letter of tax exemption as we had assumed donations were tax exempt. Can we use the 1024-EZ?**

*There is no Form 1024-EZ. Cemetery companies seeking recognition of exemption under section 501(c)(13) should file Form 1024.*

**25) Since March 2013 application processing has been very slow. I've noticed processing seems to be speeding up. Is that a result of IRS streamlining procedures or something else?**

*We have been taking a number of steps to speed up our application processing time and reduce our backlog. We are happy to report that we've made significant progress in these goals.*

**26) Is it required that only an attorney or CPA sign Form 2848 (Power of Attorney) for the organization to prepare and assist in application process?**

*Anyone may assist in preparing the application. However, to represent an organization before the IRS (for example, by providing responses to questions on behalf of the organization or representing the organization in a conference to protest the proposed denial of the organization's exemption), the representative must be an attorney, CPA, or Enrolled Agent, and must be listed on the Form 2848.*

**27) Does the "Where's My Application?" page give any info on the status or if any questions still need to be completed?**

*Please visit our [Where's My Application?](#) page, which contains general information about how we process applications and the average age of applications waiting to be reviewed.*

**28) If an organization started the process by getting an EIN, but never completed the 1023, do they need a new EIN and do they have to file past 990s along with the updated 1023?**

*The organization should not obtain a second EIN, as only one EIN should be associated with an organization. Even before applying for tax-exempt status, most organizations have an annual filing requirement. If an organization has not been satisfying its annual filing requirement, it may be automatically revoked if it failed to file a required return or notice (such as Form 990, 990-EZ, or 990-N) for three consecutive years. If this happens before an organization applies for recognition of tax-exempt status, the organization's initial application for tax-exempt status will be treated as an application for reinstatement and its name and EIN will appear on our list of organizations whose exempt status has been automatically revoked. For more information, see [our web page on automatic revocation](#) and [Revenue Procedure 2014-11](#).*

**29) What happens if an organization is beyond the 27 month formation to filing deadline?**

*If an organization seeking 501(c)(3) status files an application more than 27 months after the end of the month in which it was formed, it will generally only be able to receive exemption as of the postmark date of its application, as opposed to its date of legal formation. For more information, see Chapter 3 of [Publication 557](#), Tax-Exempt Status for Your Organization.*

*Organizations under some other subsections, such as 501(c)(4) and 501(c)(6), are not required to apply for tax-exempt status at all, so this 27-month requirement does not apply to them.*

**30) After submitting an application, where can one follow the status of the review of the application (timing), or the ability to submit any clarifications/updates or documents online?**

*Please see our [Where's My Application?](#) page, which contains general information about how we process applications and the average age of applications waiting to be reviewed.*

**31) Which applications can you e-file and is it e-filing through the IRS website or through a tax preparer?**

*The only application for tax-exempt status that can currently be filed electronically is Form 1023-EZ. It is filed through [www.pay.gov](http://www.pay.gov), and can be filed by the taxpayer or a tax preparer.*

**32) What are the user fees for each application form (1023, 1023-EZ, 1024)?**

*User fees for exemption applications are listed [here](#).*

**33) On Forms 1023, 1024, and the i1023, the user fee is \$400 if annual gross receipts are \$10,000 or less during the preceding 4 years, or if annual gross receipts are over \$10,000 during preceding 4 years the user fee is \$850. But if an organization fills out the 1023-EZ the user fee is \$400 as long as the annual gross receipts are under \$50,000. Will this change the user fee for the 1023, i1023 and 1024?**

*For a current list of our user fees, visit [this page](#).*

**34) Is the i1023 just a hand tool used to complete your application? Is it supposed to be printed?**

*Yes, you must print the completed i1023 and mail it to us.*

**35) Does an organization set-up a corporation or association and begin doing business as a Tax Exempt entity before completing Form 1023, 1023-EZ, i1023, 1024?**

*All organizations should be legally formed and obtain an Employer Identification Number before filing an application for recognition of tax-exempt status.*

*An organization may apply for tax-exempt status prior to beginning operations if it can describe its proposed operations in enough detail to permit a conclusion that it will clearly meet the particular requirements of the section under which it is claiming exemption.*

*Organizations seeking recognition under sections 501(c)(3), 501(c)(9), or 501(c)(17) must apply within 27 months of the end of the month in which they were legally formed if they wish to have their exempt status recognized back to their legal formation date.*

**36) Our organization was incorporated in 1999. The corporation was 100% dormant until late 2013. In the summer of 2013 the 1999 incorporators opted to join the new board in formation. By-laws were drawn up and approved. A first board of directors was elected, officers were elected, and we have been meeting monthly. We should file, but haven't yet, a 990-N and NYS Charities(?) form for our part year of 2013. Because the corporation was dormant, there was not a Form 1023 filed for 501(c)(3) status within the first 27 months of incorporation. It would be great if we could file the 1023-EZ. Under the circumstances of our lengthy wait to be in negotiation for the**

**license for the community garden lot (finally issued on November 14, 2013), can we obtain an exception or a waiver from the 27 month requirement and the annual 990-N filings from 1999 through 2012?**

*Organizations with \$5,000 or less in annual gross receipts are not required to apply for recognition exempt status under section 501(c)(3) until their average annual gross receipts exceed that level. However, such organizations are still subject to an annual filing requirement. Therefore, if the organization has failed to file Form 990-N for three consecutive years, its exempt status has likely been automatically revoked, even before it was formally recognized. Its initial application for tax-exempt status will be treated as an application for reinstatement, and the organization will appear on our list of organizations whose exempt status has been automatically revoked. See [Revenue Procedure 2014-11](#) for more information.*

**37) We are a section 501(c)(3) organization and our units are exempt under section 501(c)(3) and fall under our state PTA umbrella. Would our new units have to pay the \$400 user fee to get tax exempt status?**

*If the parent organization has a group exemption, it should provide the IRS with an annual update to its list of organizations that fall under its group exemption. New individual subordinate organizations that the parent includes in its group exemption do not need to apply for tax-exempt status.*

**38) I'm working with an organization that hasn't filed returns for a number of years and now needs to re-apply using Form 1023. The organization has an EIN from 1993 and for many years was completely inactive, which led up to the failure to file returns. The organization is now active. I realize after attending the webinar, I must file Form 1023 for re-instatement. The organization has re-instated articles of incorporation. Should I complete Form 1023 with the organization's old EIN or should I apply for a new EIN before completing the Form 1023? Also, should I be completing and filing returns for any previous years?**

*The organization should not obtain a new EIN. Organizations that have been automatically revoked must use their original EIN to apply for reinstatement of tax-exempt status.*

*Follow the instructions in [Revenue Procedure 2014-11](#) to see if your organization should submit returns for previous years.*

**39) How do we apply for tax-exempt status in the U.S. if our organization is based in South Africa?**

*Foreign organizations may apply for federal income tax exemption using Form 1023 or Form 1024. For more information, see page 5 of the [Instructions for Form 1023](#).*

- 40) We are seeking exempt status as a foreign entity to be able to issue donation acknowledgement for tax purposes for U.S. residents. We're not sure how to answer Part II questions 1 to 4, as we are registered as an incorporated "Society" (not a corporation, LLC or trust) in British Columbia, Canada and registered as a charity with Canada Revenue agency. Is it possible to have further instructions as to providing our organizational structure?**

*Consult a tax professional familiar with the procedures for applying for federal tax-exempt status for your type of organization.*

- 41) If an organization's tax status was revoked for not filing a return for three consecutive years, is it required to file those year's returns it missed, along with their IRS Form 1023, 1023-EZ or 1023-EZ, in order to be have its tax-exempt status reinstated?**

*This depends on the section of [Revenue Procedure 2014-11](#) under which the organization is seeking reinstatement. Review the Revenue Procedure for more information.*

- 42) I understand I must submit a Form 1023-EZ to become a registered 501(c)(19) along with the fee. But the fee is almost half of our annual income.**

*Form 1023-EZ is for organizations seeking exemption under section 501(c)(3) only. Organizations seeking recognition of exemption under section 501(c)(19) must file Form 1024. However, a section 501(c)(19) organization has the option of self-declaring its tax-exempt status, in which case it is not required to file an application. Remember that the organization must still meet its annual reporting requirement by filing a Form 990, 990-EZ, or 990-N.*

*For more information on veterans' organizations exempt under section 501(c)(19), view our pre-recorded [phone forum](#) on the topic, or [Publication 3386](#), Tax Guide for Veterans' Organizations.*

- 43) As far as providing addresses for the directors in a Form 1023-EZ, do we use a home or business address?**

*Any address where the officer or director may be reached is acceptable.*

- 44) I know I must fill out a Schedule A. Unfortunately the interactive version of the Form 1023 does not appear to have an integrated Schedule A.**

*Within the i1023 are links to interactive versions of each of the schedules.*

- 45) Since my entity is a new corporation, what periods of financials should I use in the application? Should it include the financial data of its predecessor? Also, should I submit flyers, programs, advertisements, etc. that existed for the former organization or just outlines of the upcoming programs of the new corporation?**

*The [Instructions for Form 1024](#) indicate how many years of financial data to include, based on the age of the organization. Only include financial data for the organization that is applying for tax-exempt status. In addition, only include flyers and other materials that describe the current organization's activities.*

- 46) My business relocated and due to health reasons, I was placed on disability and unaware of this new law. I did notify IRS of the inactivity status and was told I didn't have to file a Form 990 if the gross income was less than \$25,000. I'm currently trying to reinstate it. Do I qualify for the reduced user fee of \$100 since I wasn't aware of it??**

*There is no longer a reduced user fee option available for applications for reinstatement of tax-exempt status. Applicants for reinstatement pay the same user fees as initial applicants. Current user fees are listed [here](#).*

- 47) If the Form 1023 is not filed with 27 months of formation, does the entity have to file "for profit" tax returns for the months it was not exempt?**

*In many cases, organizations that apply more than 27 months from their date of formation may be eligible to be treated as 501(c)(4) organizations for the time between their formation and the postmark date of their application. If an applicant is not eligible to be treated as a 501(c)(4) organization during this time, it may need to file corporate income tax returns. For more information, see the [Instructions for Form 1023](#), pages 21-22.*

- 48) If a church is already exempt under a group exemption letter (and still qualifies) but wishes to be recognized for exemption on its own, does the Form 1023 still need to be completed (not eligible for EZ in this case)?**

*The church should inform its parent that it no longer wishes to be part of the group exemption. It may then either self-declare exemption as a church or file a Form 1023 for formal recognition of exemption.*

**49) May a POA sign the Form 1023 or 1024 for the organization?**

*No. The form must be signed by an officer, director, or trustee of the applicant.*

**50) How would an organization change its tax exempt status from section 501(c)(4) to 501(c)(3)?**

*The organization would need to ensure that it meets the organizational and operational requirements for 501(c)(3) organizations, and then submit Form 1023 (or Form 1023-EZ, if eligible) to the IRS and receive a favorable determination letter.*

**51) I have a question regarding Part III (Your Specific Activities) on the new Form 1023-EZ. If a new nonprofit organization is applying and planning to conduct more than one activity, how can it enter more than one NTEE Code, or is it not required to do so?**

*The National Taxonomy of Exempt Entities (NTEE) Code is a three or four-character code that attempts to characterize the organization in terms of its primary exempt activity. Only one NTEE code for an organization is required. We recommend that an organization use the NTEE code that most closely describes its primary activity. There is no process for indicating a second NTEE code for an organization.*

General exempt organizations questions

**52) Can a board member be compensated?**

*There is no federal statute, regulation, or IRS rule that prohibits a board member for an exempt organization from being compensated. All compensation must be reasonable, and exempt organizations must be sure that they follow the rules pertaining to private benefit and inurement. For more information on private benefit or inurement for 501(c)(3) organizations, see [Publication 4221-PC, Compliance Guide for 501\(c\)\(3\) Public Charities](#), or take our course on [Maintaining 501\(c\)\(3\) Tax-Exempt Status](#).*

**53) We're in the process of organizing a nonprofit to support a dog park in a city park. I can't decide which purpose this falls under. All dog parks have a 501(c)(3) supporting them so I assume the "friends of" would qualify.**

*Unfortunately, we cannot provide specific tax advice. Consult a tax professional.*

**54) What do we need to do to change the name of our 501(c)(3)?**

See your state's requirements for changing your organization's name, which may require amending your Articles of Incorporation. An exempt organization that has changed its name must report the change on its next annual return (such as Form 990 or 990-EZ). An organization that does not file an annual return (for example, an organization that instead files Form 990-N, the e-Postcard), or an organization that is required to e-File its return, may report the change of name by letter or fax (not by phone) to Customer Account Services. For more information, see our [web page on name changes for exempt organizations](#).

**55) I have a client that wants to set up a non-profit for a local swim team. Would they qualify as “fostering national or international amateur sports competition?”**

Unfortunately, we are unable to give specific tax advice. However, you may consult our [Continuing Professional Education Article on Amateur Athletic Organizations](#).

**56) How does the IRS define the categories listed within in Form 1023-EZ Part II, question #2? For example what is the definition of charitable or educational?**

See Chapter 3 of [Publication 557](#), Tax-Exempt Status for Your Organization, for explanations of charitable and educational organizations.

**57) Please explain for Part IV of 1023-EZ the detailed difference between choices 1a versus 1b. We had trouble determining which to check as both seem to describe us.**

[This page](#) explains the difference between sections 509(a)(1) and 509(a)(2) in general terms. Another explanation of the public support test can be found in the [Instructions for Schedule A of Form 990 or 990-EZ](#).

**58)What are donor-advised funds?**

Generally, a donor advised fund is a separately identified fund or account that is maintained and operated by a section 501(c)(3) organization, which is called a sponsoring organization. For more information, visit [this page](#).

**59) Can you explain the supporting organization status that precludes filing Form 1023-EZ?**

A supporting organization is a charity that carries out its exempt purposes by supporting other exempt organizations, usually other public charities. Unlike private foundations, supporting organizations must generally have certain

*common characteristics (such as common control) with the organizations they support. Supporting organizations are not subject to many of the restrictions and responsibilities that private foundations must follow. For more information, see [our page on supporting organizations](#).*

**60) When should an EIN be obtained? At what part of the process?**

*You should obtain an EIN after you incorporate and begin operations but before you apply for tax-exempt status. Nearly all organizations are subject to automatic revocation of their tax-exempt status if they fail to file a required return or notice for three consecutive years. When you apply for an EIN, we presume you're legally formed and the clock starts running on this three-year period. You can apply for an EIN online [here](#).*

**61) My small business is not an LLC. Can I still apply for exempt status as long as my adjusted gross income is not more than \$250,000.00?**

*There are no income limitations on an organization's eligibility to apply for tax-exempt status (although an organization's gross receipts may be too large for it to be eligible to file the simplified Form 1023-EZ). Organizations seeking tax-exempt status must meet the requirements for the section under which they are seeking exemption. For example, organizations wishing to be recognized as tax-exempt under section 501(c)(3) must be organized and operated exclusively for religious, charitable, educational, scientific, literary purposes, or to foster national or international amateur sports competition, or for the prevention of cruelty to children or animals.*

**62) How does the IRS know an organization has "self-declared" under 501(c)? And will the IRS accept Form 990-N from them?**

*An eligible organization "self declares" its exempt status by operating pursuant to the laws and regulations governing that type of organization. This includes filing an annual return or notice.*

*A self-declared organization eligible to file a Form 990-N (e-Postcard) must contact Customer Account Services toll-free at (877) 829-5500 before filing to initiate access.*

**63) If an organization is exempt from filing Form 1023 because their gross receipts are \$5,000 or less, is that organization required to file Form 990 annually?**

*Yes. Although such an organization is not required to apply for recognition of tax-exempt status, it still has an annual filing requirement, though it is likely eligible to*

*file Form 990-N. An organization that has not applied for tax-exempt status must contact Customer Account Services toll-free at (877) 829-5500 before it attempts to file Form 990-N.*

**64) How do we go about getting a copy of the determination letter for an exempt organization?**

*Organizations are required to retain a copy of their determination letters, so you may request one directly from the organization. To request a copy of an organization's determination letter from the IRS, submit [Form 4506-A](#) to the address specified in the form's [Instructions](#).*

**65) What tax exempt status form should Parent-Teacher Associations file? Do they file under their state PTA?**

*State designations are separate from federal income tax exemption, and we cannot provide advice on state tax rules. Parent-Teacher Associations may qualify for exemption from federal income tax under section 501(c)(3). For more information, see [Publication 557, Tax-Exempt Status for Your Organization](#).*

*If the organization meets the requirements of section 501(c)(3) and answers "no" to all the questions on the 1023-EZ Eligibility Worksheet, it may file Form 1023-EZ. The Eligibility Worksheet can be found in the [Instructions for Form 1023-EZ](#).*

**66) Please explain the concept of self-declaring.**

*Most 501(c)(3) organizations are required by law to apply to the IRS in order to receive exemption from federal income tax (there are limited exceptions – for example, churches do not have to apply to the IRS). However, many other kinds of tax-exempt organizations, such as those that wish to be exempt under section 501(c)(4), 501(c)(6), 501(c)(8), and 501(c)(10), are not required to apply to the IRS to be tax-exempt. Instead, they must simply comply with the rules for organizations operating under that subsection and meet their annual filing requirement (by filing Form 990, 990-EZ, or 990-N). These organizations are known as self-declarers. They will not have a formal determination letter from the IRS recognizing them as tax-exempt, but they are not legally required to have such a letter. Some organizations that are eligible to self-declare may still choose to apply for recognition of tax-exempt status and receive a determination letter from the IRS. Consult a tax professional for advice regarding whether your organization should self-declare.*

**67) Is talking to federal agencies to urge continuation of funding considered lobbying?**

*Lobbying involves advocating for or against legislative action. Communication with the Executive Branch (including federal agencies) does not constitute lobbying.*

**68) Will the IRS website accept a Form 990-N before section 501(c)(3) status is granted?**

*An organization may file a Form 990-N before it is granted recognition of 501(c)(3) status (e.g. while its application is pending). To do so, you must first call Customer Account Services at (877) 829-5500. Remember, in general, an organization must meet its annual filing requirements while its application is pending.*

**69) Can I e-File the 990-EZ?**

*Yes. For more information, visit our page on [e-file for charities and non-profits](#).*

**70) Can you present a webinar on unrelated business income?**

*We have an audio webcast on unrelated business income available [here](#). For other webcasts, please visit [www.irsvideos.gov](http://www.irsvideos.gov) and click on the “Non-Profits” tab.*

*In addition, we have a course on unrelated business income available at [www.StayExempt.irs.gov](http://www.StayExempt.irs.gov) under the “Existing Organizations” tab.*

**71) If a charity charges for advertising in a newsletter, does this generate taxable unrelated business income?**

*In general, revenue from advertising in an exempt organization’s periodical is taxable as unrelated business income. For more information, see [Publication 598, Tax on Unrelated Business Income of Exempt Organizations](#).*

**72) Is renting a part of the organization’s building that is not being used by the organization considered unrelated business income---even if the proceeds are used to help the funding of the organization?**

*Rental income from real property is excluded from the definition of unrelated trade or business if it meets certain criteria. For additional information, refer to [Publication 598, Tax on Unrelated Business Income of Exempt Organizations](#).*

**73) What examples are there of UBI activities for 501(c)(3)s fostering amateur sports competition? Would concession sales be one example?**

*For specific examples of unrelated business income, refer to [Publication 598, Tax on Unrelated Business Income of Exempt Organizations](#). To determine*

*whether a certain activity may generate taxable unrelated business income, consult a tax professional or follow [our procedures](#) for requesting a Private Letter Ruling.*

**74) Are sale of goods and bingo/gaming activities considered unrelated business income?**

*Generally these activities generate unrelated business income, although there are exceptions. For additional information, refer to [Publication 598, Tax on Unrelated Business Income of Exempt Organizations](#).*

**75) If a non-profit educational organization provides membership services and/or relevant educational materials and publications to members, would that income be considered related or unrelated?**

*This would depend on the facts and circumstances of the particular organization. For more information, consult a tax professional, follow [our procedures](#) for requesting a Private Letter Ruling, or refer to [Publication 598, Tax on Unrelated Business Income of Exempt Organizations](#).*

**76) Can we get a copy of this presentation or re-watch it later?**

*The presentation is available at [www.irsvideos.gov/NonProfits/HelpResources](http://www.irsvideos.gov/NonProfits/HelpResources).*

**77) What are the benefits of a church filing for tax exempt status when it is already exempt under section 501(c)(3)?**

*There are various benefits to having the assurance and certainty of a determination letter from the IRS recognizing a church as exempt under section 501(c)(3). For example, some donors or grantors may require a determination letter before they make a contribution to a church.*

**78) Is there a requirement for the size of an organization's board or can there be two principal officers and others considered just volunteers?**

*The IRS does not have specific requirements regarding the size of an organization's board. However, your state law may contain such a requirement. In addition, an organization should ensure that its income is not inuring to the benefit of insiders, such as board members.*

**79) I want to start an organization that sells alcohol to support veteran charities. It will have about three events a year where it sells alcohol. Its main purpose is to raise funds to help veterans. Is this organization 501(c)(3) eligible?**

*The sale of alcohol is generally not an activity that would further an exempt purpose. For advice specific to a particular organization, consult a tax professional.*

**80) Where do you find reasonable compensation amounts for directors and employees?**

*Reasonable compensation can be established in several ways. For example, an organization may obtain data on compensation for similarly situated employees in other similar organizations. For more information see our [page about reasonable compensation](#).*

**81) How do we get continuing education credits for CPAs?**

*You should have received a completion certificate from us a few weeks after the webinar. If you did not, email us at [tege.eo.ceo@irs.gov](mailto:tege.eo.ceo@irs.gov).*

**82) As a nine-unit condo HOA with only volunteers to manage our association - no paid employees. Monthly dues are allocated for covering maintenance of the building and repairs as needed. How do we qualify?**

*Unfortunately, we cannot provide specific advice. You may view our [Continuing Professional Education article about tax-exempt homeowners' associations](#). For further information, consult a tax professional.*

**83) Can you provide the e-mail address you stated at the end of the presentation please?**

*We can be reached at [tege.eo.ceo@irs.gov](mailto:tege.eo.ceo@irs.gov).*

**84) Would a local volunteer fire department be a 501(c)(3)- reduce the burden of government or a 501(c)(4) - civic league and social welfare?**

*A volunteer fire department may qualify under either subsection, depending on the facts and circumstances. See our response to question 19.*

**85) In Part III of the new Form 1023-EZ, Question 6 asks if we will donate funds or pay expenses for individuals. Are payments to a college as a scholarship on behalf of a student considered paying expenses for an individual? Are discounts on fees to an educational class to needy people (i.e. low income) considered paying expenses for an individual?**

*Without more information, it is impossible for us to give a definitive answer to this question. However, scholarship payments typically would be considered the*

*payment of expenses for individuals. Discounted fees may or may not be considered the payment of expenses for individuals. Consult a tax professional.*

- 86) Over the years, I have seen resistance by IRS examiners to organizations seeking tax exempt status for economic development activities. Form 1023, Part VII, question 6 asks if the organization will engage in economic development. In particular, the examiner I once spoke with stated that economic development could only qualify if it was directly benefitting people in poverty. The proposed activity, assisting former tobacco farmers in finding other crops and/or beneficial uses of their property to keep them on the land and develop local food systems, was rejected because the farmers were not in poverty. Clearly the applicant sought to offset community deterioration, but that argument was not accepted. Please direct me to any published guidance you have.**

*[This section](#) of our Internal Revenue Manual contains information on how we evaluate economic development activities.*

- 87) A speaker asserted that "generally, public charity status under section 509(a)(1) is more favorable than under section 509(a)(2)." I question this assertion since both should result in the same public charity status if the applicant qualifies under either section. Can you clarify the assertion made by the speaker?**

*Our Internal Revenue Manual states that section 509(a)(2) classification has the following disadvantages compared to section 509(a)(1) classification:*

- a. Under section 507(b)(1)(A), a private foundation may terminate its status without incurring the tax imposed by section 507(c) if it distributes all of its net assets to one or more organizations described in sections 170(b)(1)(A)(i) through (vi) and the organization(s) has been in existence with the same foundation status for a continuous period of at least 60 calendar months immediately preceding the distribution. See Treas. Reg. section 1.507-2(a)(1).*
- b. If a section 509(a) organization makes a contribution or grant to an organization claiming non-private foundation status under section 509(a)(2), it must be considered for purposes of the \$5,000 or 2 percent limitation. Under such circumstances their contributions or grants generally would not constitute support from permitted sources to the organization claiming non-private foundation status for the purposes of the support test under section 509(a)(2).*
- c. A section 509(a)(2) organization is limited to a deduction that cannot exceed 30% of adjusted gross income for donations of capital gain property to*

*another section 509(a)(2) organization. See sections 170(b)(1)(B) and 170(b)(1)(C).*

- 88) A pro bono client of mine is founding a private independent school. She and her board have formed a not-for-profit entity under state law that is doing the work of starting the school – including fundraising, hiring teachers, negotiating a lease - but they will soon be filing for a separate corporate entity that will be the school itself and will be chartered under the state board of regents and will separately seek 501(c)(3) status once it is chartered. Would the “fundraising corporation” be considered a “cooperative service organization” under section 501(f) and thereby disqualify it for Form 1023-EZ?**

*Unfortunately, we cannot provide any specific tax advice. This [Continuing Professional Education article](#) contains more information on cooperative service organizations, beginning on page 9.*

- 89) Are churches permitted to publicly support political candidates on a non-partisan basis?**

*Tax-exempt churches may not support or oppose a political candidate's candidacy for public office. For more information, see [our page on political campaign intervention by 501\(c\)\(3\) organizations](#). You can also take our [course on political campaigns and charities](#) on [www.StayExempt.irs.gov](http://www.StayExempt.irs.gov).*

- 90) Are friends of the public library who have section 501(c)(3) status exempted from collecting sales taxes on their ongoing "used book sales," which is actually advertised as a "used books suggested donations" then has list of suggested price?**

*Sales tax exemptions are governed by state law, not federal law. Check with your state taxation authority.*

- 91) An organization has a letter of determination under section 501(c)(3). The organization needs a service. The spouse of a voluntary board member owns a business that provides this particular service. Like an insurance agent, or real estate agent or general contractor repairing the roof. After discussing at a meeting and voting, the Board decides to retain and pay the spouse. Is this private inurement or private benefit or a conflict of interest? Does the board member benefit? The funds may go to the household or directly to the board member.**

*Whether such a situation constitutes a conflict of interest depends on all the particular facts and circumstances of the individual case. We highly recommend that exempt organizations adopt a conflict of interest policy (you can find a sample policy in Appendix A of the [Instructions for Form 1023](#)). You may also wish to view our pre-recorded [phone forum](#) on good governance.*

- 92) I'm formally the treasurer of this organization/scholarship foundation, but I'm also technically the tax preparer/CPA representing the organization so since this creates a conflict of interest, how should we proceed? Should I step down as treasurer?**

*We cannot provide specific advice to organizations. Organizations should adopt and follow their own conflict of interest policies and review our materials on [governance of charitable organizations](#).*

- 93) We are in the process of applying for tax exempt status. How do we handle the donation income and expenses that were received/incurred in 2013? Do we wait to receive our tax exempt status and then file our Form 990-N?**

*In general, exempt organizations have a filing obligation even before their application has been approved. See our page on [Tax Law Compliance Before Exempt Status is Recognized](#), as well as our page on [Contributions to Organizations with an IRS Application Pending](#).*

- 94) Knowing that my scholarship foundation will receive donations from the general public tells me that it's a public charity. However, when you said that an organization becomes a "private foundation" when most of the donations are then redistributed to other 501(c)(3) organizations, it concerned me because we sort of do that. Since our primary donations go to the student (who is not a 501(c)(3)) then I assume we'd still be classified as a public charity.**

*Unfortunately, we cannot provide any specific tax advice. [This page](#) provides more information on the difference between public charities and private foundations.*

- 95) Is there a reason arts/music is NOT listed as one of category boxes when sports and sciences are?**

*Promotion of the arts and of culture is generally recognized as an educational activity. See Treas. Reg. section 1.501(c)(3)-1(d)(3)(ii).*

- 96) What, if any, is the difference between a tax exempt entity and a non-profit entity? Is a non-profit entity always considered tax exempt?**

*There is a common misconception that these terms are equivalent. Not all non-profit entities are exempt from federal income taxation. Exemption from federal income tax is a federal designation. Organizations may be recognized as exempt from federal income taxation by filing Form 1023, 1023-EZ, or 1024 and receiving a favorable determination letter. Entities labeled as non-profits generally receive this designation from the state when they incorporate under a state's nonprofit corporation statute.*

- 97) We have irregularly scheduled plant sales, a few a year, to raise funds for maintenance and to educate consumers on the nature of their native plant purchase, cultivation requirements and plant characteristics (all part of our educational mission). I think they would be considered as furthering our educational mission, but just checking with you to be sure.**

*Income from a trade or business that is regularly carried on and not substantially related to an organization's tax-exempt purpose may result in taxable income. Whether an activity furthers an organization's exempt purposes depends on all the facts and circumstances. Whether an activity is regularly carried on depends in part on the frequency and continuity with which the activities are conducted and the manner in which they are pursued.*

*Also keep in mind that unrelated business income does not include income from activity conducted entirely by volunteer labor or sales of donated merchandise.*

- 98) Can you tell me what most distinguishes 170(b)(1)(A)(vi) and 509(a)(2)?**

*Organizations classified under sections 509(a)(1)/170(b)(1)(A)(vi) and under section 509(a)(2) have a similar basis for public charity status in that both receive support from "public" sources. There are, however, two significant differences between section 509(a)(1)/170(b)(1)(A)(vi) and section 509(a)(2) organizations:*

- (a) The public support of IRC 509(a)(1)/170(b)(1)(A)(vi) is derived from gifts, grants and contributions; the public support of section 509(a)(2) organizations more typically consists of gross receipts derived from an activity that is related to the organization's exempt function. This income is not included in meeting the support test for an section 509(a)(1)/170(b)(1)(A)(vi) organization.*
- (b) Section 509(a)(2) places a limit on the receipt of certain types of income – the organization must receive less than 33 1/3 percent of its total support from gross investment income and net unrelated business income -- while section 509(a)(1)/170(b)(1)(A)(vi) contains no such limitation.*

**99) What is an unincorporated association? How can an organization become unincorporated association? If you will grant an unincorporated association tax-exempt status, is it eligible to give an end-of-year thank you letter, if he will get some donations from businesses or individuals, and if businesses or individuals are able to get some tax deduction from their taxes?**

*An “unincorporated association” formed under state law must have at least two members who have signed a written document for a specifically defined purpose. Its articles of organization must include the organization’s name, its purpose(s), the date the document was adopted, and the signatures of at least two individuals. Bylaws may be considered an organizing document only if they are properly structured to include the organization’s name, purpose(s), signatures, and intent to form an organization. Contact the agency governing the formation of business organizations in your state for more information about forming an unincorporated association.*

*For information regarding charitable contributions, review [Publication 1771](#), Charitable Contributions: Substantiation and Disclosure Requirements.*

**100) Most people only know about section 501(c)(3). What should we do as preparers when we find the client organized under the wrong classification - and has been operating under the wrong section?**

*The organization should submit an application as soon as possible under the correct subsection. Organizations with past non-compliant activity may consider submitting a request for a closing agreement using the procedures found [here](#).*

**101) We often see bank accounts opened to receive donations/gifts for the benefit of an individual. What, must be done to obtain the FEIN for the bank account and is an exempt ruling required to engage in such an activity?**

*Bear in mind that organizations exempt under section 501(c)(3) cannot be operated for the benefit of a designated individual or individuals. In addition, Employer Identification Numbers are issued to organizations, not to individual bank accounts.*

**102) If a church sells a property on installment to a for-profit entity and has a gain plus takes back a mortgage and receives interest, is the gain and interest subject to unrelated business tax?**

*Unfortunately, we cannot provide specific tax advice. Consult a tax professional.*

**103) Part III line 10 mentions bingo and gaming activities. Do raffles fall into the gaming activities category?**

*Raffles generally constitute gaming. Review [Publication 3079](#), Tax-Exempt Organizations and Gaming, for more information.*

**104) Part III line 6 of the Form 1023-EZ speaks of donating funds or paying expenses for individuals which is the case for us paying expenses for youth as a part of our program suggesting we should answer yes. Is this correct or is the question suggesting individuals not supported by our programs?**

*Unfortunately, we cannot provide specific tax advice. Refer to the [Instructions for Form 1023-EZ](#) or consult a tax professional. In general, this question refers to any individuals to whom your organization will donate funds or for whom your organization will pay expenses.*